

PERTH AND KINROSS COUNCIL**Scrutiny Committee – 27 November 2013****SCOTTISH PUBLIC SERVICES OMBUDSMAN REPORTS****Report by Head of Legal Services****PURPOSE OF REPORT**

This report provides information about investigation reports and decision letters published by the Scottish Public Services Ombudsman (SPSO) regarding the Council from October 2012 to October 2013. The report also presents summarised information about the complaints received and determined in total by the SPSO about the Council and all other Local Authorities from Financial year 2012-13.

1. BACKGROUND / MAIN ISSUES

- 1.1 The Scottish Public Services Ombudsman Act 2002 and the Public Services Reform (Scotland) Act 2010 give the Scottish Public Services Ombudsman (SPSO) the authority, in defined circumstances, to investigate complaints about Scottish public authorities, including local authorities. Any resulting reports are laid before the Scottish Parliament and decision letters are published on the SPSO website.
- 1.2 The SPSO issues a report for any complaints he has investigated which he considered to be of national significance and lays these reports before the Scottish Parliament. The SPSO did not issue any reports in relation to Perth and Kinross Council.
- 1.3 This report covers decision letters about the Council published from October 2012 to October 2013.
- 1.4 The SPSO also provides statistical information each year about the complaints received about the Council in comparison to all local authorities. This report analyses any implications arising from the figures for 2012/2013.

2. INVESTIGATION REPORTS & DECISION LETTERS PUBLISHED OCTOBER 2012 – SEPTEMBER 2013

- 2.1 The table below lists the decision letters published by the SPSO in regard to complaints made against Perth & Kinross Council between October 2012 and October 2013.
- 2.2 The Ombudsman closed a number of cases after his initial investigation, concluding that they could not be taken forward. Reasons for closure vary, for example insufficient information supplied by the complainant, the matter being outwith the SPSO's remit or the complaint had not been through the Council's own complaints process.

- 2.3 In 2012-2013 the Council dealt with 76 Stage 2 complaints containing 239 points of complaint, compared with 48 complaints containing 174 points of complaint during 2011-2012, at the final stage of its complaints process. Approximately 30% of these cases were referred by complainants to the SPSO during 2012-2013 compared with 35% during 2011-2012.

Case Ref.	Description	Number of Complaints	Complaints Upheld
201103632	HCC - Social Work Issues	2	1
201104865	TES - Planning Issues	3	0
201105085	HCC – Housing Issues	3	File Closed
201200200	TES – Flooding Issues	2	0
201200379	HCC Council Tax Issues	7	5
201201910	TES – Planning Issues	1	0
201201981	TES – Planning Application	6	3
201202177	TES Planning Issue	1	0
201202326	HCC Housing Issues	6	2
201202858	ECS – Policy/Administration Matters	2	1
201202948	CEX – Subject Access Issue	1	File Closed
201202994	HCC – Council Tax Issue	2	1
201203424	HCC – Housing Benefit Claim	4	0
201204420	CEX – Licensing Issues	2	1
201204685	ECS – Confidentiality Issues	2	0
201204821	TES – Planning Application	9	5
201204866	HCC – Housing Issues	1	1
201205172	HCC – Council Tax Liabilities	1	File Closed
201205407	HCC – Anti-Social Issues	4	3

201300524	TES – Planning Issue	3	0
201301469	ECS – Bullying Issues	2	2
201301805	HCC – Housing Issues	2	0
201302442	TES – Planning Application	4	File Closed
23	Total	70	25

- 2.4 The SPSO closed 3 of these cases in 2012-2013, without reaching a decision compared to 8 in 2011-2012.
- 2.5 The SPSO upheld 25 (36%) out of the 70 complaints in 2012-2013, compared to 9 (28%) upheld out of 32 in 2011-2012. Of the 25 complaints upheld by the SPSO, six had been upheld and three had been partially upheld by the Council. They did not uphold 36 (51%) complaints in 2012-2013 compared to 11 (34%) complaints in 2011-2012. The remaining 9 complaints were from the cases that were closed during 2012-2013 compared to 12 complaints in 2011-2012.
- 2.6 There is no pattern or common factor arising out of the upheld complaints which would indicate any change in practice is required, other than continuing to try to improve the overall quality of the Council's complaints handling procedures and responses.
- 2.7 The Council has accepted all but one of the 25 recommendations made by the Ombudsman in connection with complaints against the Council. The one which has not been accepted is currently being discussed with the Ombudsman. The Ombudsman's recommendations are varied and include policy/procedural reviews, directions to erect fencing, presentations to Scottish Ministers, apologising for omissions and errors, ensuring officers are aware of these, on four occasions reimbursing costs/council tax and on three occasions apologising for the unreasonable delay in responding to complaints. The delay in these cases was caused by the increase in Stage 2 complaints and staff being involved in the implementation of the new Complaints Handling procedure.
- 2.8 With the implementation of the new complaints system on 1 April 2013 there is now only one investigation stage. This means that there is greater capacity within the complaints system to cope with increases in complaint numbers. Each Service has their own complaints investigators who will pass investigations to the Corporate Complaints Team if they judge that complaints will not be finalised within 20 working days. In addition there are nearly 200 officers who in addition to their own roles have been trained as Investigating Officers and who can be asked to undertake a complaint investigation.

- 2.9 The Corporate Complaints Team ensure that the Decision letters are circulated to the relevant Service and all the officers who were involved in the original complaint. The team also note the completion date of the recommendation and ensure that a response is issued to the SPSO within the required time scale.

3 STATISTICAL INFORMATION FOR 2012-2013 AND COMPARISON INFORMATION FROM 2011-2012

- 3.1 Appendix 1 shows the number of complaints received by the SPSO during 2012-2013 both about the Council and about all local authorities. The figures are split by the SPSO's reporting categories.
- 3.2 In 2012-2013 the SPSO received 16% more complaints about the Council than the previous year, compared to an overall reduction in all local authority complaints of 1%. As the Council dealt with 37% more Stage 2 complaints during 2012-2013 the increase in complaints referred to the SPSO is reasonable.
- 3.3 Most of the SPSO's figures for the Council are within the range of the national figures for local authorities. There are several categories where the Council has no recorded complaints, although low national percentages for these categories make it likely that no complaints would be recorded for any given authority.
- 3.4 Two areas, Social Work and Subject Unknown / Out of Jurisdiction, show figures better than the national figures. In 2011-12 there were also two areas which were better than the national figures, Building Control and Subject Unknown / Out of Jurisdiction.
- 3.5 Two areas, Education and Planning, show percentages higher than the national figures. The cases making up these figures have been looked at to identify any underlying pattern or cause. In 2011-12 Housing and Planning were the two areas which had percentages higher than national figures.
- 3.6 As can be seen, the SPSO received a total of 14 complaints about the Council relating to planning issues. This compares to 10 in the previous year.

The largest cause of these complaints was again the handling of planning applications. This was the cause in 7 out of the 14 cases with another 7 being in regard to policy/administration matters. Of the 14 cases, 9 were from people who had objected to the application and were unhappy with the outcome.

When the number of complaints is compared to the total number of objections received (2,239) and to the number of planning applications (1,732) in the year, the number does not seem particularly significant. The complaints represent 0.63% of the objections and 0.81% of the applications. The number does not appear to indicate a particular problem.

This is reinforced by the SPSO only partially upholding two of the complaints.

- 3.7 The SPSO received a total of 4 complaints for Education. The complaints are about completely different issues including confidentiality, policy/administration matters, Additional Support Needs assessment, and bullying. Again, there does not appear to be a systemic problem to be addressed.
- 3.8 The SPSO also provided information about the numbers of premature complaints they received about local authorities, that is complaints which had not been through the authority's complete complaints process. For the Council, 45% (47% from previous year) of the complaints were premature, which compares to a national average of 50%.
- 3.9 For local authorities overall, the SPSO issued 1507 decision letters compared to 1497 from the previous year and 6 reports compared to 9 in the previous year.

4 SPSO ANNUAL REPORT

- 4.1 The SPSO publishes an Annual Report. The report for 2012-2013 can be found at http://issuu.com/spsoc/docs/spsoc_annual_report_2012-13

This report describes the performance of the SPSO during the year. It also explains how the remit of the SPSO has expanded with the number of complaints he handles increasing with an overall decrease of 15% in his resources.

The report describes the SPSO's Complaints Standards Authority and its progress towards delivering the decision of the Scottish Parliament that there should be a standardised Complaints Handling Procedure across the Public Sector. This work is described in detail within the report.

A progress report on the work that Perth and Kinross Council has undertaken to implement the model CHP was the subject of a separate report to this Committee in September 2013.

5. PROPOSALS

There are no proposals in regard to this report.

6. CONCLUSION AND RECOMMENDATIONS

The information about the SPSO findings provides an opportunity to reflect on the effectiveness of the Council's service delivery and complaints handling. The SPSO provides an independent complaints service for the public and, as such, will always receive some complaints about the Council. It is encouraging that the number of complaints upheld by the SPSO has declined and that there is no discernable pattern in the complaints received.

It is recommended that the Scrutiny Committee:

- (i) Note the position regarding investigation reports and decision letters published about complaints against the Council.
- (ii) Note that all but one recommendation has been accepted by Council Officers and that appropriate action has been taken in all other cases.
- (iii) Note the comparative information about complaints received by the Ombudsman in 2012-2013.

Author(s)

Name	Designation	Contact Details
Pamela Dickson	Complaints & Governance Officer	(4)75527

Approved

Name	Designation	Date
Ian Innes	Head of Legal Services	15 November 2013

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Council Text Phone Number 01738 442573

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

The undernoted table should be completed for all reports. Where the answer is 'yes', the relevant section(s) should also be completed. Where the answer is 'no', the relevant section(s) should be marked 'not available (n/a)'.

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	No
Corporate Plan	No
Resource Implications	
Financial	No
Workforce	No
Asset Management (land, property, IST)	No
Assessments	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	No
Sustainability (community, economic, environmental)	No
Legal and Governance	No
Risk	
Consultation	
Internal	Yes
External	No
Communication	
Communications Plan	No

3. Consultation

Internal

- 3.1 Each Service's Complaints Co-ordinator was consulted during the preparation of this report.

Complaints Received by the SPSO 2012-2013

PKC Service	SPSO Category	PKC				All Local Authorities			
		Complaints to SPSO		%		Complaints to SPSO		%	
		11-12	12-13	11-12	12-13	11-12	12-13	11-12	12-13
Chief Exec / CS	Personnel	0	0	0	0	11	7	1	1
	Finance	2	4	4	7	73	85	5	6
	Legal & Admin	1	1	2	2	44	48	3	3
	Total	3	5	6	9	128	140	9	10
ECS	Education	3	6	6	10	77	76	5	5
	Recreation & Leisure	0	0	0	0	23	20	2	1
	Total	3	6	6	10	100	96	7	6
HCC	Housing	13	15	28	25	341	361	21	24
	Social Work	5	4	10	7	182	183	12	12
	Total	18	19	38	32	523	544	33	36
TES	Building Control	0	1	0	2	42	26	3	2
	Consumer Protection	0	0	0	0	10	9	1	1
	Env. Health & Cleansing	2	1	4	2	40	60	3	4
	Land & Property	1	1	2	2	30	28	2	2
	Planning	10	14	21	24	210	197	13	13
	Roads & Transport	4	2	8	4	96	73	6	5
	Economic Development	N/A	0	N/A	0	N/A	1	N/A	0
	Total	17	19	35	34	420	394	28	27
Fire & Police Boards		0	0	0	0	1	2	0	0
National Park Authorities		0	0	0	0	1	0	0	0
Other		0	2	0	4	12	10	1	1
Valuation Joint Boards		0	0	0	0	9	6	1	0
Subject Unknown or Out of Jurisdiction		7	6	15	11	325	313	21	20
Total		48	57	100	100	1527	1505	100	100

